

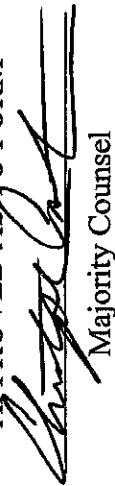
Amendment in Nature of a Substitution Clerk Item 480-17
introduced by Presiding Officer Norma Gonsalves, Deputy Presiding Officer Richard Nicolletto,
Alt. Deputy Presiding Officer Howard Kopel, Minority Leader Kevan Abrahams, Legislators Siela
Bynoe, Legislator Carrie Solages, Legislator Denise Ford, Legislator Laura Curran,
Legislator C. William Gaylor III, Legislator Vincent Muscarella, Legislator Ellen Birnbaum,
Legislator Delia DeRiggi-Whitton, Legislator James Kennedy, Legislator Laura Schaffer,
Legislator Arnold Drucker, Legislator Rose Marie Walker, Legislator Donald MacKenzie
Legislator Steven Rhoads

LOCAL LAW 14 2017

**A LOCAL LAW TO AMEND THE COUNTY GOVERNMENT LAW OF NASSAU COUNTY
TO ESTABLISH AN INDEPENDENT OFFICE OF INSPECTOR GENERAL FOR NASSAU
COUNTY**

Passed by the Nassau County Legislature on December 18, 2017.
Voting: ayes: 15 nays: 0 abstained: 0

Became a law on December 26, 2017 with the approval of the County Executive.

APPROVED AS TO FORM

Majority Counsel

BE IT ENACTED by the County Legislature of the County of Nassau as follows:

Section 1. A new Article I-C is added to the County Government Law of Nassau County
as follows:

Article I-C

OFFICE OF THE INSPECTOR GENERAL, NASSAU COUNTY

- 185. Office Created and Established and the Purpose of the Office
- 186. Definitions
- 187. Authority, Powers, and Functions
- 188. Outreach
- 189. Minimum qualifications, selection, and term of office
- 190. Physical facilities and staff

191. Procedure for the finalization of reports and recommendations which make findings as to the person or entity being reviewed or inspected
192. Reporting
193. Financial support and budgeting.
194. Removal
195. Enforcement
196. Penalty

§185. Office Created and Established and Purpose of the Office.

There is hereby established an independent office of the Inspector General which is created in order to provide increased accountability and oversight of County operations, to detect and prevent waste, fraud, abuse and illegal acts in programs administered or financed by the County, particularly the County's contracting and procurement processes, to promote transparency, efficiency and integrity in the County contracting and procurement process, and to assist in increasing economy, efficiency, and effectiveness in the administration of the County government. The Inspector General shall initiate, conduct, supervise, and coordinate investigations, audits, reviews and examinations designed to detect, deter, prevent, and eradicate fraud, waste, mismanagement, misconduct, and other abuses by elected and appointed County officials, officers, employees, agencies, departments, commissions, boards, offices and all other instrumentalities of the County as well as County vendors, contractors, subcontractors, and lower tier subcontractors, and other parties doing business with the County and/or receiving County funds. The aforementioned shall not be applicable to the County Legislature and the Office of Legislative Budget Review. The Inspector General shall head the Office of the Inspector General. The organization and administration of the Office of the Inspector General shall operate independently in such a manner so as to assure that no interference or influence external to the Office of the Inspector General compromises or undermines the integrity, independence, fairness and objectivity of the

Inspector General in fulfilling the statutory duties of the office or deters the Inspector General from zealously performing such duties.

§186. Definitions.

As used in this article:

1. "Documents" shall mean documents, records, papers, correspondence, files and books, in whatever format they are maintained, whether digital, electronic, or paper copy.
2. "County agencies" shall mean all County agencies, departments, commissions, boards, offices, and instrumentalities.
3. "County funds" shall include all County expenditures, including but not limited to expenditures of grant monies and other funds paid out on a pass through basis.

§187. Authority, Powers and Functions.

1. The Inspector General shall have the authority to:
 - a. investigate, review, examine and audit past, present, and proposed County programs, activities, expenditures, accounts, records, contracts, agreements, purchase orders, change orders, procurements, and transactions including all activities and operations of County agencies, with an emphasis on detecting waste, fraud, and abuse in County procurement;
 - b. prepare and publish reports and recommendations to the County Executive and County Legislature, based on the results of such investigations, reviews, examinations and audits. The County Executive and all appointed County officials, officers and employees, agencies, vendors, contractors, their subcontractors, and lower tier subcontractors as well as other parties doing business with the County and/or receiving County funds shall fully cooperate with the Inspector General and his or her staff in the exercise of the Inspector

General's functions, authority, and powers. Such cooperation shall include, but not be limited to providing statements, documents, records, and other information during the course of an investigation, audit, examination or review. Such audits shall be conducted in accordance with generally accepted governmental auditing standards. Such investigations will comply with the generally accepted governmental investigatory standards, and where appropriate, the Principals and Standards for Offices of the Inspector General as published and reviewed by the Association of Inspectors General. The Office of the Inspector General shall promulgate and adhere to written policies for conducting investigations, audits, examinations and reviews;

c. to monitor and analyze all available State and County vendor and contractor databases relating to County procurement or contracting, County vendor and contractor political contributions to County officials and to political clubs and parties, County vendor and contractor lobbying disclosure information, and financial disclosure forms of all County elected and appointed officials, officers and employees in order to detect indications of possible instances of patterns or impropriety in connection with the County procurement process.

2. The Inspector General shall have the power to issue directives requiring the production of documents and records, and obtain full and unrestricted access to all documents and records of the County Executive, and all appointed County officials, officers, employees, agencies, their vendors, contractors, subcontractors, and lower tier subcontractors, as well as other persons and entities doing business with the County and/or receiving County funds regarding any such contracts or transactions with the County. Except as otherwise limited in this section, the Inspector General's jurisdiction includes but shall not be limited to all projects, programs, contracts, and transactions that are administered, overseen and/or funded in whole or in part by the County;
3. The Inspector General may require the County Executive and all appointed County officials and employees, including officials, officers and employees of all County agencies, vendors, contractors, their subcontractors, and lower tier subcontractors, as

well as other persons and entities doing business with the County and/or receiving County funds to submit to a requested interview and provide sworn statements in connection with matters under review, examination, audit and/or investigation.

4. In the case of a refusal by an official, officer, employee, or other person to comply with a request by the Inspector General for documents, for an interview, or for a sworn statement, the Inspector General shall have the power to subpoena witnesses and to issue subpoenas compelling the production of documents and other information. The Inspector General shall not interfere with any ongoing criminal investigation or prosecution by any prosecutorial office of the state or federal government. In the case of a refusal to obey a subpoena served upon any person, the Inspector General may make an application to any court of competent jurisdiction to issue an order compelling the witness to appear before the Inspector General and to produce evidence if so ordered, or to give testimony relevant to the matter in question. Any person found guilty of willfully refusing to obey a subpoena of the Inspector General shall be guilty of an unclassified misdemeanor and subject to imprisonment for a term of up to one year and a fine of not more than ten thousand dollars.
5. Where the Inspector General suspects a possible criminal violation of any state, federal, or local law, he or she shall forthwith notify the appropriate law enforcement agencies. The County Executive shall promptly notify the Inspector General of possible mismanagement of a contract constituting misuse or loss exceeding \$5,000 in public funds, fraud, theft, bribery, or other violations of law which appears to fall within the jurisdiction of the Inspector General, and may notify the Inspector General of any other conduct which may fall within the Inspector General's jurisdiction. The County Executive shall coordinate with the Inspector General to promulgate reporting procedures for notification to the Inspector General.
6. The Inspector General shall have the power, without limitation, to audit, investigate, monitor, inspect, examine and review the operations, activities, and all other aspects of the performance of the County procurement processes including, but not limited to, unsolicited proposals, the preparation of bid specifications and requests for bid specifications and requests for proposal specifications, bid submittals, request for

proposal submissions, evaluation of bids and proposals, awards of contracts, agreements and purchase orders, activities of the vendor, contractor, their subcontractors, and lower tier subcontractors, their officers, agents and employees, lobbyists as well as County staff, employees, officers and officials who communicated with the aforementioned entities and/or individuals, or who in any other way were involved in the procurement process, in order to ensure compliance with contract specifications and detect corruption and fraud.

7. The Inspector General shall have the power to receive, review, and investigate any complaints regarding any County-funded projects, programs, contracts, purchase orders, agreements or transactions, and all other activities, or operations of the County Executive and County agencies. The Inspector General shall establish a "hotline" to receive complaints from either anonymous or identified persons.
8. The Inspector General may exercise any of the powers contained in this article upon his or her own initiative.
9. The Inspector General shall be notified in writing prior to any meeting of a procurement selection committee where any matter relating to the procurement of goods or services costing more than one hundred thousand dollars by the County is to be discussed. The notice required by this subsection shall be given to the Inspector General within one business day after a meeting is scheduled. The Inspector General or his or her staff may, at his or her discretion, attend all County meetings relating to the procurement of goods or services as provided herein, and may pose questions and raise concerns consistent with the functions, authority and powers of the Inspector General. The notice requirements of this provision shall apply where the aggregate cost of goods or services obtained from any one vendor or contractor or its affiliate equals or exceeds one hundred thousand dollars in a twelve-month period.
10. The Inspector General's records related to active, non-final audits, investigations, examinations and reviews are confidential and exempt from disclosure to the extent permissible by law.
11. The Inspector General is considered "a County government official" for purposes of whistleblower protection provided by Section 22-4(3)(a) of the Nassau County Administrative Code.

12. The Inspector General may recommend remedial actions and may provide prevention and training services to County officers, officials, employees, and any other persons covered by this Article. The Inspector General may follow up to determine whether recommended remedial actions have been taken.
13. The Inspector General shall establish policies and procedures and monitor the costs of investigations undertaken. The Inspector General shall cooperate with other governmental agencies to recover such costs from other entities involved in misconduct in regard to County, state, or federal funds.
14. The Inspector General shall have the power to review contracts as provided in Section 300-A of Article III of this Charter.
15. The Inspector General shall have the power to issue written approvals as provided in subsection 6 of section 2218 of Article XXII of the Charter.
16. The Inspector General shall assist the Board of Ethics as provided in subparagraph (b) of subsection 10 of Section 2218 of Article XXII of the Charter.
17. The Inspector General may contract with outside entities deemed necessary to perform the function of that office. Any such contract is subject to final approval by the Legislature but such approval shall not be unreasonably withheld.
18. The Inspector General shall have the power to hire staff as provided in subsection 2 of Section 216 of this Article.
19. The Inspector General shall comply with the restrictions of prohibited political activity contained in Section 100.5 of the Rules of the Chief Administrative Judge of New York State.

§188. Outreach. The Inspector General will coordinate with the County Executive to develop awareness and strategies to inform government officials and employees as well as the general public, of the authority and responsibilities of the Office of the Inspector General. Such strategies shall include but not be limited to inclusion in the County government's website a link to the Office of the Inspector General web page, publication of notices in County government newsletters, and posting information about the Office of the Inspector General in government employee break rooms and other common meeting areas. The Inspector General shall include on its website examples that illustrate fraud, waste, mismanagement, misconduct, and abuse.

§189. Minimum qualifications, selection, and term of office.

1. *Minimum qualifications.* The Inspector General shall be a person who:
 - a. Has at least ten years of experience in any one or a combination of the following fields:
 - i. As a federal, state or local law enforcement officer/official or prosecutor;
 - ii. As a federal or state court judge;
 - iii. As an inspector general, certified public accountant; or internal auditor;
 - iv. As a person with progressive supervisory and managerial experience in an investigative public agency similar to an inspector general's office;
 - v. As a person responsible for regulatory and compliance issues whether in the public or private sector;
 - b. Has managed and completed complex investigations involving allegations of fraud, theft, deception, and conspiracy;
 - c. Has demonstrated the ability to work with local, state, and federal law enforcement agencies and the judiciary;
 - d. Has a four-year degree from an accredited institution of higher learning and a graduate degree in law or criminal justice or is a certified public accountant;
 - e. Has not been employed by the County, any municipality, or any other governmental entity subject to the authority of the Office of the Inspector General during the two-year period immediately prior to selection unless such employment has been with the Nassau County Office of the Inspector General;
 - f. Has not been an officer of a political party for the ten years preceding their appointment.
 - g. Is a person of integrity and good moral character.
2. *Selection.*

- a. The County Legislature shall create a legislative committee within the County Legislature for the purpose of maintaining general supervision of and liaison with the Office of the Inspector General. The membership of such committee shall be as follows: the Presiding Officer of the County Legislature, the Minority Leader, the chairman of the finance committee, one member appointed by the Presiding Officer and one member appointed by the Minority Leader. Before the Inspector General is appointed pursuant to the provisions of this section, the committee shall publish a notice that a vacancy exists in such office and shall interview potential candidates for appointment to such office. The committee shall, by majority vote, approve nominees for the position of Inspector General.
- b. No one may be interviewed for the position of Inspector General until an advertisement has been placed in a newspaper designated as the official newspaper of the county.
- c. In the event that the County Legislature seeks to reappoint the same individual who occupies the position of Inspector General, the requirements as to the setting forth of qualifications, public notice and interviewing that are described in this section shall not apply and such reappointment may occur at any time after November 1 of the last year of the director's term.
- d. The Legislature, by the enactment of a procedural resolution, shall appoint or reappoint the Inspector General by an affirmative vote of thirteen members of the entire membership of the County Legislature.
- e. The Inspector General shall serve for a term of four (4) years. Such Inspector General shall serve for a four-year term of service, commencing on the first day of January of an even-numbered year and expiring on the thirty-first day of December of the second consecutive odd-numbered year following the appointment, irrespective of the date of appointment.

§190. Physical facilities and staff.

1. The County shall provide the Office of the Inspector General with appropriately located office space and sufficient physical facilities together with necessary office equipment and furnishings to enable the Office of the Inspector General to perform its functions.
2. The Inspector General shall have the power to appoint, employ, and remove such deputies, assistants, employees and personnel, including but not limited to investigators, auditors and counsel, and to establish personnel procedures, as he or she deems necessary for the efficient and effective administration of the activities of the Office of the Inspector General within the limits of the relevant appropriations.

§191. Procedure for finalization of reports and recommendations which make findings as to the persons or entity being reviewed or inspected.

The Inspector General shall publish and deliver finalized reports and make recommendations to the Legislators, County Executive, County Comptroller and to the County Board of Ethics. Notwithstanding any other provision of this article, whenever the Inspector General determines that it is appropriate to publish and deliver a report or recommendation which contains findings as to the person or entity being reported on or who is the subject of the recommendation, the Inspector General shall provide the affected person or entity a copy of the findings. Such person or entity, who is the subject of a finding, report or recommendation resulting from an investigation or review, shall have twenty-one calendar days to submit a written explanation or rebuttal of the findings before the report or recommendation is finalized. In the case of an audit, such person or entity shall have twenty-eight calendar days to submit a written explanation or rebuttal of the audit findings or before the report or recommendation is finalized. The Inspector General shall grant reasonable extensions of time for providing a written explanation or rebuttal upon written request. Such timely submitted written explanation or rebuttal shall be attached by the Inspector General to the finalized report or recommendation. The requirements of this section shall not apply when the Inspector General, in conjunction with the District Attorney or United States Attorney, determines that supplying the affected person or entity with such report would jeopardize a pending or potential criminal investigation.

§192. Reporting.

1. Not later than March 31st of each year, the Inspector General shall prepare and publish a written annual report summarizing the activities of the office during the immediately preceding fiscal year. The report shall be furnished to the County Executive, and the County Comptroller as well as the Presiding Officer and the Minority Leader of the County Legislature. The annual report shall be posted with a link on the Inspector General's web page. The annual report shall include, but need not be limited to:
 - a. a description of significant abuses and deficiencies relating to the administration of programs and operations disclosed by investigations, audits, reviews, examinations or other activities during the reporting period, with a specific section of the report addressing matters involving the County's procurement process; and
 - b. a description of the recommendations for corrective action made by the Inspector General during the reporting period with respect to significant problems, abuses, or deficiencies identified, identification of each significant recommendation described in previous annual reports on which corrective action has not been completed, and a summary of each audit, investigation, review, and examination completed during the reporting period.
2. The Inspector General shall meet with representatives of the Majority and Minority delegation of the Nassau County Legislature upon request or every six months to review the previous six month's activities and the Inspector General's plans and objectives for the upcoming six months.

§193. Financial Support and Budgeting.

1. Pursuant to its annual budgeting processes, the County shall provide sufficient financial resources to the Office of the Inspector General to enable it to fulfill its duties, exercise its powers and accomplish its purposes and objectives as set forth in this Article. There

shall be a separate control center in the Annual Budget Ordinance for the Office of the Inspector General.

§194. Removal.

1. The Inspector General may be removed only for good cause based upon specified charges of the following:
 - a. Dereliction or neglect of duty; or
 - b. malfeasance or abuse of power or authority; or
 - c. ethical misconduct.
2. The removal process shall be initiated by the County Legislature by procedural resolution. An affirmative vote of thirteen members of the entire membership of the County Legislature shall be required to present the Inspector General with the charges and to proceed to final public hearings before the County Legislature. The County Legislature shall transmit a copy of the charges to the Inspector General at least sixty days prior to any public hearings which shall be convened by the County Legislature. The Inspector General shall have an opportunity to be heard in person and by his or her counsel at the final public hearings prior to the votes being taken on his or her removal. The Inspector General may only be removed upon the affirmative vote thirteen members of the entire membership of the County Legislature finding the Inspector General guilty of the specified charges. A record of the proceedings, together with the charges and finding thereon, shall be filed with the Clerk of the Legislature. The Inspector General shall be deemed removed by operation of law without a public hearing in the event the Inspector General is convicted of or enters a guilty plea or no contest plea to a state or federal felony.

§195. Enforcement.

This article is enforceable by all means provided by law, including seeking declaratory and injunctive relief in any court of competent jurisdiction. Each member of the Nassau County

Legislature, the County Executive, the Inspector General shall have standing to commence a judicial action or proceeding to enforce the provisions of this Article.

§196. Penalty.

Any person who:

1. retaliates against, punishes, threatens, harasses, or penalizes, or attempts to retaliate against, punish, threaten, harass, or penalize any person for assisting, communicating or cooperating with the Inspector General; or
2. knowingly interferes, obstructs, impedes or attempts to interfere, obstruct or impede in any investigation, audit, review or examination conducted by the Inspector General, shall be guilty of an unclassified misdemeanor and subject to imprisonment for a term of no longer than one year and a fine of no more than ten thousand dollars, in addition to any other penalty provided by law. Any potential violation of this section shall be referred to the District Attorney for investigation and prosecution.

Section 2. Subparagraph (c) of subsection 3 of Section 300-A of Article III of the County Government Law of Nassau County, known as the County Charter, is amended as follows:

- c. Prior to execution, every contract shall follow the following approval path:
 - (1) Contract initiative by Department Head after consultation with the office of County Executive and notification to collective bargaining units;
 - (2) Certification of Budget Office that funds are available and services are appropriate;
 - (3) Notification of the Inspector General, subject to the Inspector General's powers of review and investigation. Each proposed contract presented to the Legislature for approval shall be accompanied by a written statement as to whether it was reviewed or investigated by the Inspector General, and an indication of the results of any such review or investigation.

- (4) Preparation of Contract by County Attorney in accordance with §2206 of the County Government Law;
- (5) Approval of Insurance Department if insurance is required;
- (6) Approval by Office of County Executive after consultation with Department Head;
- (7) Approval and/or encumbrance of funds by County Comptroller;
- (8) Submission to County Legislature for legislative approval if same is required;
- (9) Signature of County Executive.

Section 3. Section 2213 of Article XXII of the County Government Law of Nassau County, known as the County Charter, is amended as follows:

§2213. Power to administer oaths and issue subpoenas. The County Executive, the County Comptroller, the County Fire Marshal, the Commissioner of Investigations and such other members of his or her staff as he or she may designate, members of the County Civil Service Commission and its secretary, members of the County Board of Assessors, the Chairman of the County Planning Commission, the County Medical Examiner and his or her deputies and any other officers who may be designated by ordinance shall have the power to administer oaths and affirmations and to compel the attendance of witnesses and the production of books and papers, and any person disobeying a valid subpoena thereof, or who willfully refuses to make oath or affirmation when requested to do so thereby, shall be guilty of a misdemeanor and shall be punished by a fine of not more than five hundred dollars or imprisonment for not more than three months, or by both such fine and imprisonment. In addition to the foregoing, the Inspector General shall have the power to issue subpoenas and administer oaths as provided by Article II-A of the Charter.

Section 4. Subsection 6 of Section 2218 of Article XXII of the County Government Law of Nassau County, known as the County Charter, is amended as follows:

3. Misuse of County resources. No officer or employee of the County shall use the resources of the County in furtherance of his or her business, professional or political interests or activities, or in furtherance of the interests or activities of any outside entity other than pursuant to a County contract with such entity, without the written approval of the head of their agency, and the written approval of the Board of Ethics upon a finding by the Board that such activity is in furtherance of the interests of the County, and the written approval of the Inspector General.

Section 5. Subsection 10, subparagraph (b) of Section 2218 of Article XXII of the County Government Law of Nassau County, known as the County Charter, is amended as follows:

- b. The Board shall have the authority to investigate complaints of actions in violation of this section. The results of any such investigation may be shared, in the discretion of the Board, with necessary and appropriate County officers and law enforcement officials. In furtherance of this investigatory function, the Board may request that the Commissioner of Investigations or the Inspector General use the power and resources of his or her office to assist the Board.

Section 6. Severability. If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 7. SEQRA Determination. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L., section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action

within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

Section 8. Effective Date. This local law shall take effect immediately.

APPROVED



County Executive

DATE Dec. 26, 2017